

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SEDERICK VON LEE,

Plaintiff,

v.

MAXEY CERLIANO,

Defendant.

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Case No. 6:19-cv-271-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On July 18, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 17) recommending denial of Plaintiff's motion to proceed *in forma pauperis* and dismissal of this action with prejudice for purposes of *in forma pauperis* proceedings as frivolous under 28 U.S.C. § 1915(g) and pursuant to *Shakouri v. Davis*, 923 F.3d 407, 410 (5th Cir. 2019). The Clerk of Court sent a copy of this Report to Plaintiff at his last known address on July 19, 2019.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the

prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 17) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 17) be **ADOPTED**, that Plaintiff's motions to proceed *in forma pauperis* (Docket Nos. 13 & 15) be **DENIED**, and that the above-styled civil action be **DISMISSED WITH PREJUDICE** for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915—but without prejudice as to the refiling without seeking *in forma pauperis* status.

So **ORDERED** and **SIGNED** this **20th** day of **August, 2019**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE